

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JACKSON RUBEN VITAL	§	
VS.	§	CIVIL ACTION NO. 1:22cv106
DIR. FED. BUR. OF PRISONS, ET AL.	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Jackson Ruben Vital, proceeding *pro se*, filed the above-styled civil rights lawsuit. The Court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending that the case be dismissed for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation.

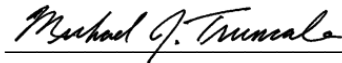
The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the Court is of the opinion the objections are without merit. The Magistrate Judge correctly concluded that plaintiff's claims of excessive force, retaliation and denial of due process cannot be asserted in a case filed pursuant to *Bivens v. Six Unknown Agents of the Bureau of Narcotics and Dangerous Drugs*, 403 U.S. 388 (1971).

Plaintiff also asserts a medical care claim against certain John Doe defendants. The Magistrate Judge noted that his Report and Recommendation did not consider the claim against the John Doe defendants. The court is of the opinion that as the medical care claim involves different factual and legal issues, it should be severed from this lawsuit.

ORDER

Accordingly, plaintiff's objections [Dkt. 30] are OVERRULED. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge [Dkt. 19] is ADOPTED. A final judgment shall be entered. The medical care claim against the John Doe defendants is SEVERED into a separate lawsuit. The Clerk of Court is directed to assign a separate civil action number to the new lawsuit and assign the new lawsuit according to the regular practice of allotment of newly-filed civil actions. Documents 1, 17, 20, 22, 26, 29, 31 and 32 shall be filed in the new action, as well as remaining filed in this action. No additional filing fee shall be assessed with respect to the new action.

SIGNED this 21st day of August, 2024.

A handwritten signature in black ink, reading "Michael J. Truncala", is written over a horizontal line.

Michael J. Truncala
United States District Judge